

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ROBERT BAKER,

Plaintiff,

v.

HOPEMAN BROTHERS INC., ET AL,

Defendants.

No. C 11-01646 CRB

**ORDER ALLOWING FURTHER
BRIEFING AND RE-SETTING
HEARING DATE**

Defendant Maremont Corporation has moved for summary judgment in this case, arguing that Plaintiff Robert Baker's claims are time-barred by California Code of Civil Procedure § 340.2. See MSJ (dkt. 34).¹ Plaintiff timely opposed that motion, arguing that the motion itself is time-barred in light of Judge Robreno's Amended Scheduling Order, which required all summary judgment motions to be filed by January 31, 2012. See Opp'n to MSJ (dkt. 41) at 2, Miller Decl. (dkt. 41-1) Ex. A.

No doubt, the motion for summary judgment is late, in light of both the Amended Scheduling Order and Federal Rule of Civil Procedure 56(b), which provides that "Unless a different time is set by local rule or the court orders otherwise, a party may file a motion for summary judgment at any time until 30 days after the close of all discovery."² Nevertheless, the Court finds that judicial efficiency favors resolving Defendant's argument as to section


¹ Defendant Tenneco has filed a joinder in that motion. See Joinder (dkt. 40).

² The close of discovery in this case was October 17, 2011. See Miller Decl. Ex. A.

1 340.2 earlier rather than later. See Tungjunyatham v. Johanns, No. 1:06-cv-01764-SMS,
2 2010 WL 1797264, at *2 (E.D. Cal. May 4, 2010) (“Sound judicial policy favors allowing a
3 tardy summary judgment motion to proceed to the extent that an opposing party receives
4 sufficient notice.”). Because Plaintiff’s opposition to the motion addressed only its lateness,
5 the Court will permit Plaintiff to file an additional opposition on the motion’s merits.
6 Plaintiff may file a substantive opposition, if he wishes to do so, by February 4, 2014.
7 Defendant may then file a reply to that opposition, if it wishes to do so, by February 11,
8 2014. The motion hearing currently set for January 24, 2014 is hereby re-set to February 28,
9 2014.

10 **IT IS SO ORDERED.**

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12 Dated: January 21, 2014

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CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE

United States District Court
For the Northern District of California